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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 STATE OF WASHINGTON,

11 Plaintiff,

12 v.

13 THE GEO GROUP, INC.,

14 Defendant.

CASE NO. 3:17-cv-05806-RJB

ORDER DENYING DEFENDANT
GEO'S MOTION FOR
RECONSIDERATION OF ORDER
DENYING MOTION FOR
SUMMARY JUDGMENT ON
FIRST CAUSE OF ACTION (DKT.
164)

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16 Defendant moves for reconsideration of Order Denying Motion for Summary Judgment
17 on First Cause of Action (Dkt. 162), pointing out that the Court's Order did not address the
18 Washington Department of Labor and Industries Administrative Policy ES.A.1. The Court
19 should have addressed that policy, and will do so now, but that policy makes no difference in the
20 Court's conclusion in Dkt. 162, and further response pursuant to LCR 7(h) is not necessary, nor
21 is oral argument necessary.

22 The subject policy, ES.A.1, is entitled "Minimum Wage Act Applicability" and refers to
23 RCW 49.46 and WAC 296-128. The policy reiterates the pre-eminence of protection to the
24 worker in paragraphs 1 and 2.

1 The sub-paragraph that, the defense argues, provides it with some relief here is ES.A.1,
2 6(k), which reads as follows:

3 **Inmates and others in custody.** Residents, inmates or patients of state, county or
4 municipal correctional, detention, treatment or rehabilitative institution would not
5 be required to be paid minimum wage if they perform work directly for, and at,
6 the institution's premises where they are incarcerated, and remain under the direct
7 supervision and control of the institution. State inmates assigned by prison
8 officials to work on prison premises for a private corporation at rates established
9 and paid for by the state are not employees of the private corporation and would
10 not be subject to the MWA.

11 First, the residents at issue here are not residents of a “state, county, or municipal [...]”
12 institution.”

13 Second, the residents, or detainees, are not “state inmates.”

14 Third, the institution operated by defendant is not a “prison,” which is defined by Black’s
15 Law Dictionary (9th ed.) as “A state or federal facility of confinement for convicted criminals,
16 esp. felons.”

17 Fourth, work done by residents, or detainees, at Defendant’s facility is not compensated
18 “at rates established and paid for by the state.”

19 ES.A.1 provides defendant no relief from the Court’s Order Denying Defendant the GEO
20 Group, Inc.’s Motion for Summary Judgment on Plaintiff’s First Cause of Action (Dkt. 162).

21 We should keep in mind that these issues are raised here in a summary judgment motion.
22 There are, at least, material issues of fact that prevent summary judgment. Exactly what issues
23 and what instructions will be presented to a jury remain to be seen.

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THEREFORE, Defendant's Motion for Reconsideration (Dkt. 164) is hereby DENIED.

IT IS SO ORDERED.

Dated this 27th day of December, 2018.

Robert Bryan

ROBERT J. BRYAN
United States District Judge